

SERVICE DATE - MAY 9, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-586 (Sub-No. 1X)

NORTH CENTRAL RAILWAY ASSOCIATION, INC.—
ABANDONMENT EXEMPTION—IN FRANKLIN COUNTY, IA

Decided: May 7, 2002

North Central Railway Association, Inc. (NCRA) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 6.25-mile line of railroad between milepost 184.75 near Hampton and milepost 191.0 near Geneva, in Franklin County, IA.¹ On October 23, 2001, a decision and notice of interim trail use or abandonment (NITU) was served that reopened the proceeding and authorized a 180-day period for Iowa Trails Council (ITC) to negotiate an interim trail use/rail baling agreement with NCRA for the entire line. The negotiating period under the NITU expired on April 22, 2002.

On April 26, 2002, ITC filed a request to extend the negotiation period for an additional 180 days. ITC states that it is representing the Franklin County Conservation Board in these negotiations and that more time is needed in which to make final arrangements to take on this task. On May 3, 2002, NCRA stated that it is agreeable to an extension of the NITU negotiating period, but not to exceed 60 days.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended.² Under the circumstances, an extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended for a period of 60 days from April 22, 2002 (until June 21, 2002).

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ Notice of the exemption was served and published in the Federal Register on September 24, 2001 (66 FR 48908-09).

² See Rail Abandonments Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company—Abandonment in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and SSW Ry. Co.—Aband.—In Smith and Cherokee Counties, TX, 9 I.C.C.2d 406 (1992).

It is ordered:

1. The negotiating period under the NITU is extended to June 21, 2002.
2. This decision is effective on its service date.

By the David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary